

ILLINOIS COMMERCE COMMISSION

Aug 21 9 41 AM '01

Illinois Bell Telephone Company)	CHIEF CLERK'S OFFICE
)	98-0252
Application for Review of Alternative Regulation Plan)	(consol.)
)	
Illinois Bell Telephone Company)	
)	98-0335
Petition to Rebalance Illinois Bell Telephone Company's)	(consol.)
Carrier Access and Network Access Line Rates)	
)	
Citizens Utility Board and the People of the State)	
of Illinois)	
vs.)	00-0764
Illinois Bell Telephone Co., d/b/a Ameritech, Illinois)	(consol.)
)	
Petition for reduction in rates and other relief)	

**GCI's RESPONSE TO ILLINOIS BELL'S SUPPLEMENTAL BRIEF ON FACTUAL ISSUES
 RAISED BY NEW LEGISLATION**

Pursuant to the schedule adopted by the Administrative Law Judges on July 24, 2001, the People of the State of Illinois, by James Ryan, Attorney General, the Cook County State's Attorney's Office, and the Citizens Utility Board (Government and Consumer Intervenors)) submit the following response to the Supplemental Brief on Factual Issues Raised by New Legislation ("Supplemental Brief") filed by Illinois Bell Telephone Company ("IBT", "Ameritech" or "the Company"). GCI request that the Commission strike and disregard IBT's affidavits and arguments concerning the implementation problems associated with customer credit requirements.

IBT's Supplemental Brief argues that the Commission should not change the customer credit obligations imposed on the Company by the newly adopted Part 732 (Emergency Rule)(see ICC Docket 01-0485). The Company asserts that it would be wasteful and burdensome to change its customer credit obligations so soon after the adoption of Part 732 (Emergency Rule). IBT relies on the affidavits of an Ameritech Illinois employee and an SBC employee who address the number of hours they expect the implementation of the Part 732 and the new customer credits to take, and the problems they anticipate

with these projects. In addition, on pages 7-8 of IBT's Initial Brief on Impact of New Legislation, it argued that the Commission should allow "a minimum of 180 days from the effective date of the order to implement" changes to the customer compensation rules.

GCI request that the Commission reject the affidavits and the arguments based on those affidavits in IBT's Supplemental Brief and Initial Brief (pages 7-8). The subject of customer credits was raised by Staff witnesses and GCI/City witness Charlotte TerKeurst in their direct testimony in November, 2000, (Staff Exhibits 8, 9; GCI/City Ex. 2), and IBT responded with extensive testimony. (AI Ex. 3.1, 3.2, 3.3, 3.4) However, in none of these testimonies did IBT suggest that it would be burdensome or unusually time-consuming to implement customer credits. Yet at this stage of the proceedings, after Reply Briefs on Exceptions, it suggests that the burden to establish a customer credit system is onerous.

IBT argues that because it has been obligated to create a customer credit system in response to Part 732 (Emergency Rule), it would be "wasteful" and "inequitable" to require it to modify that system by imposing more stringent requirements upon IBT as part of its alternative regulation plan. Supplemental Br. at 2. The affidavits attached to the Supplemental Brief contain estimates of the amount of time to implement both the Part 732 customer credit system and any modifications to that system resulting from this docket.

First, and perhaps most importantly, under section 13-506.1(b)(6), the Commission can only approve an alternative regulation plan if it finds that the plan "will maintain the quality and availability of telecommunications services." The extensive record detailing service quality degradation unfortunately shows the validity of the Commission's 1994 comment that: "[O]ne of the theoretical risks of price regulation is that the Company may, while seeking to maximize its income, reduce expenditures in certain areas in such a manner as to impact service quality adversely. This is especially true for residential services which are the most inelastic services and are unlikely to be exposed to competitive pressures in the near term." ICC Docket 92-0448/93-0239, Order at 58 (Oct. 14, 1994). The burden of

implementing a system to insure that service quality is maintained is simply one of the consequences of alternative regulation and cannot supersede the statutory mandate that the plan protect service quality. In addition, the different incentives created by alternative regulation, as compared to rate of return regulation, and IBT's significantly poorer service quality record as compared with other Illinois ILECs, support the need for more stringent customer credit provisions for IBT's alternative regulation plan. Finally, difficulty in implementation should not influence the Commission's determination of the merits of whether enhanced customer credits are necessary. The record, which includes IBT's past service quality performance and the overall structure of alternative regulation, should be the only considerations in fashioning a service quality customer compensation system for IBT. In short, IBT's Supplemental Brief and attached affidavits are irrelevant to the decision about what customer credits should be adopted as part of alternative regulation and should be rejected.

Second, under section 9-201 of the Public Utilities Act, when the Commission suspends tariffs and changes the "rates or other charges, classifications, contracts, practices, rules or regulations," the utility has 30 days to implement the changes.¹ 220 ILCS 5/9-201. Certainly IBT was aware of this obligation during the course of this docket, and should have taken the steps necessary to insure that it could comply in a timely manner with possible customer compensation requirements, as proposed by Staff and GCI. IBT should not be permitted to now suggest, months after the record was closed, that it will require 180 days to implement customer credits – 6 times longer than the statute allows. IBT chose not to address this issue in its testimony, and should not now be heard to challenge the "equity" of alternative regulation-specific customer credits by way of its Supplemental Brief and untested affidavits.

Third, the Commission should not reopen the record to accept the tardy affidavits attached to the

¹ Section 9-201 states in relevant part: "Within 30 days after such changes have been authorized by the Commission, copies of the new or revised schedules shall be posted or filed in accordance with the terms of Section 9-103 of this Act, in such a manner that all changes shall be plainly indicated." 220 ILCS 5/9-201.

Supplemental Brief. If these affidavits are to form the basis of a Commission decision not to enhance or alter the customer credit and service quality provisions of the alternative regulation plan, the affiants would have to be subject to cross-examination and other parties would have to have an opportunity to respond to and challenge the accuracy, veracity and reliability of the affidavits. This would lead to unreasonable delay and an undue, additional burden on parties who presented their case and responded to IBT's evidence in the normal course and according to the schedule set in the case.

Fourth, the affidavits submitted by IBT are either not credible or demonstrate that IBT does not have the capability to promptly and efficiently manage its obligations under alternative regulation. Mr. John J. Muhs, who is an Ameritech Illinois employee, estimated that it will take 3800 hours to implement the Part 732 rules. This is equal to close to 5 employees working 40 hours per week for a full year. Mr. Michael Flynn, from SBC in California, adds another 1200 hours to this amount (30 weeks) . (Flynn Affidavit at para. 5.)

If these figures are accurate and assuming that an equivalent amount of work would have been needed to implement the alternative regulation customer credits in the first instance had Part 732 not predated them, the Company is actually ahead as a result of the Part 732 emergency rule. Because the Company has so many aspects of the system in place as a result of Part 732, it has significantly less to do from the date of an alternative regulation order imposing more stringent customer credit provisions. The 900 additional hours Mr. Muh identifies (22.5 weeks) and the additional 1000-1400 hours Mr. Flynn identifies (25-35 weeks) would allow the Company to comply with an alternative regulation customer credit order sooner than would be the case if the Company were starting from scratch, with no systems in place. In this respect consumers will benefit from the Part 732 system work IBT has done to date.

IBT's complaint that it will have to redo or undo some work is no more compelling than the argument that a utility must change, amend or redo its tariffs and the associated systems whenever a rate schedule is suspended and new rates or rate structures are ordered by the Commission. In short, revision of systems, billing or customer service training occurs whenever rates or services are changed by

Commission order and should not be considered an extraordinary event. The fact that the changes will come close in time, or that the Company established the initial system in response to a rule of general applicability, does not change the basic concept that whenever rates or services are changed as a result of a Commission decision, the utility has to modify its systems.

Conspicuously absent from IBT's Supplemental Brief is any discussion of the dollar amounts associated with the work IBT will be required to perform if more stringent alternative regulation customer credit provisions are imposed. Given the high profits IBT has reported and that have been identified in this docket, it is not surprising that the financial cost of compliance is not being identified as an issue by IBT. IBT has benefitted handsomely from alternative regulation over the past 7 years, and complaints about implementing necessary Commission conditions should be rejected as beyond the scope of the testimony and as immaterial to whether consumer compensation provisions need to be more stringent under section 13-506.1(b)(6) than are currently required under Part 732.

For the foregoing reasons and the reasons set forth in GCI's Reply Brief on the Impact of HB 2900, GCI request that the Commission strike and disregard IBT's Supplemental Brief and the affidavits attached thereto as well as section I.D. of IBT's Initial Brief (pages 7-8).

Respectfully submitted:

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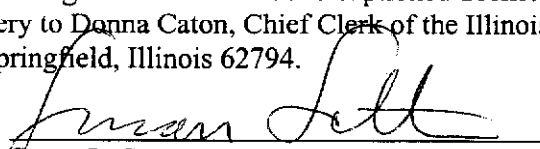
STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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Application for Review of Alternative)	Docket No. 98-0252
Regulation Plan)	
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Network Access Line Rates)	
Citizens Utility Board and People of the)	
State of Illinois, ex rel. James E. Ryan,)	
Attorney General of the State of Illinois,)	
Complainants)	
)	
vs.)	Docket No. 00-0764
)	
Illinois Bell Telephone Company d/b/a)	
Ameritech Illinois,)	(consolidated)
Respondent)	

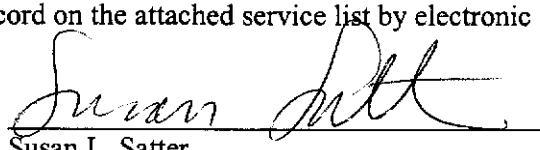
NOTICE OF FILING

PLEASE TAKE NOTICE that on this date August 20, 2001, we have filed with the Chief Clerk of the Illinois Commerce Commission the enclosed GCI's Response to Illinois Bell's Supplemental Brief on Factual Issues Raised by New Legislation in the above-captioned docket by delivering it to United Parcel Service for next day delivery to Donna Caton, Chief Clerk of the Illinois Commerce Commission, at 527 East Capitol Avenue, Springfield, Illinois 62794.


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CERTIFICATE OF SERVICE

I, Susan L. Satter, an Assistant Attorney General, hereby certify that caused to be served the above identified documents upon all active parties of record on the attached service list by electronic mail on August 20, 2001 and by US Mail to all parties.


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